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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,048	09/18/2003	Deepak Tandon	A03148US (98786.5)	6581
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LAKEWAY 3, SUITE 3290 3838 NORTH CAUSEWAY BLVD. METAIRIE, LA 70002			HENDRICKSON, STUART L	
			ART UNIT	PAPER NUMBER
, -			1754	
			MAIL DATE	DELIVERY MODE
			08/21/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary Tambon Et al.	· · · · · · · · · · · · · · · · · · ·	Application No.	Applicant(s)				
Stuart Hendrickson The MAILING DATE of this communication appears on the cover sheet with the correspondence address — Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS. WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. The MONTH of the specified above, the maintain statutory period will apply and will again state 30 (b) (MONTHS from the maintain date of this communication. If NO period for reply is applicated boxe, the maintain statutory period will apply and will again state 30 (b) (MONTHS from the maintain date of the communication. If NO period for reply is applicated boxe, the maintain statutory period will apply and will again state 30 (b) MONTHS from the maintain date of this communication. If NO period for reply is application in a statutory period will apply and will again state 30 (b) MONTHS from the maintain date of this communication, even it thingly fisc, may reduce any application and application is proposed to the maintain date of this communication, even it thingly fisc, may reduce any application is proposed to the maintain date of this communication, even it thingly fisc, may reduce any application is proposed to the maintain date of this communication, even it thingly fisc, may reduce any application is proposed to the maintain date of this communication. Status 1) Month and the proposed and the proposed and the proposed and the proposed and the maintain and application is one-final. 3) Indication is proposed and the proposed and		10/666,048	TANDON ET AL.				
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, <u> </u>	Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date	5) Notice of Informal 6) Other:	Patent Application				

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The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 2, 18-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a) In claim 2, it is not clear how a carbon black can be from both groups.
- b) Claim 25 is unclear as to what 'indirect' encompasses/means.
- c) Claim 19 is unclear as to what 'stronger structure' means.
- d) Claim 20 is unclear, as FDA requirements can change. Perhaps 'generally recognized as safe' is meant.
- e) Claims 18 and 21-25 are unclear as to the basis for comparison. Compared to which ones?
- f) Claim 24 contains improper Markush language. 'a' group is improper.

Claims 1-3, 8, 9, 17-25 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Yoshimura et al. 4693879.

The reference teaches, in the entire document but in col. 8 and 9 especially, carbon black having the claimed properties subject to heat treatment. The intended use does not limit the product. Although the heat treatment is not identical to what is claimed, where the examiner has found a substantially similar product as in the applied prior art the burden of proof is shifted to the applicant to establish that their product is patentably distinct not the examiner to show that the same process of making, see In re Brown, 173 U.S.P.Q 685, and In re Fessmann, 180 U.S.P.Q. 324. No difference is seen in the effect of the treatment (claim 9).

Claims 1-3, 8, 9, 17-25 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Johnson 3408164.

The reference teaches, in the entire document but in col. 8 and 9 especially, carbon black having the claimed properties subject to heat treatment. The intended use does not limit the

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product. Although the heat treatment is not identical to what is claimed, where the examiner has found a substantially similar product as in the applied prior art the burden of proof is shifted to the applicant to establish that their product is patentably distinct not the examiner to show that the same process of making, see In re Brown, 173 U.S.P.Q 685, and In re Fessmann, 180 U.S.P.Q. 324. No difference is seen in the effect of the treatment (claim 9).

Applicant's arguments filed 7/3/07 have been fully considered but they are not persuasive.

The claims do not require what is argued on 'pg. 9' of the response. The claims are product claims, so process arguments are not relevant. No product differences have been demonstrated, and the claims do not require any particular value of any particular property.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to examiner Hendrickson at telephone number (571) 272-1351.

Stuart Hendrickson examiner Art Unit 1754